



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

December 21, 2015

CERTIFIED RETURN RECEIPT 7012 3460 0002 9559 6670

Kirk Nicholes, Resident Agent
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

Subject: Failure to Complete Sage Grouse Mitigation on 355 Acres of BLM Land, Coal Hollow Mine, C/025/0005

Dear Mr. Nicholes:

Alton Coal's sage grouse mitigation project on 355 acres of BLM land was inspected by Joe Helfrich on November 18th, 2015. Photographs were taken and provided to BLM staff at the Kanab area field office. The BLM concurred with the Division's findings noting that the required specifications for the project had not been met. Notice of Violation # 21161 is being issued as a result of Alton Coal Development LLC's failure to meet these requirements by the established deadline of 31st of October 2015. ACD will need to comply with one of the following abatement measures in order to satisfy the mitigation requirements outlined in your Mining and Reclamation Plan associated with the 355 acre BLM parcel:

1) ACD will need to complete the mitigation for those remaining areas within the 355 acre BLM parcel to the required specifications and receive written approval from the BLM for completion of the treatment. There are time constraints associated with this option as weather conditions make the area currently inaccessible and closure periods for the sage grouse are in effect until mid-July of 2016; or

2) Fund a Watershed Restoration Initiative (WRI) project through the BLM and DWR which will count toward completion of the treatment in the 355 acre BLM parcel. The amount of acreage to be treated and cost per acre will be determined by the BLM; or



Page 2
Kirk Nicholes
December 21, 2015

3) Complete an alternative mitigation project comprising 355 acres of mitigation approved in conjunction with DWR and DOGM.

ACD will need to comply with one of the abatement options prior to the expansion of mining and or mining related activities into any new area. Selection of one of the abatement options must be made by no later than January 20, 2016. Termination of the NOV will occur upon completion of any one of the options.

Sincerely,



Daron R. Haddock
Coal Program Manager

DRH/JCH/ss

Enclosure

cc: Sheri Sasaki, DOGM
Suzanne Steab, DOGM

O:\025005.COL\MITIGATION NOV COVER LETTER (2).DOC



Citation for Non-Compliance
Utah Coal Regulatory Program
1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 21161
Permit Number: C0250005
Date Issued: 12/21/2015

☒ **NOTICE OF VIOLATION** ☐ **CESSATION ORDER (CO)** ☐ **FAILURE TO ABATE CO**

Permittee Name: ALTON COAL DEVELOPMENT LLC

Inspector Number and ID: 1 JHELFRIC

Mine Name: COAL HOLLOW

Date and Time of Inspection: 1/18/2015 11:00 am

Certified Return Receipt Number: 70123460000295596670

Date and Time of Service: 12/21/2015 12:00 pm

Nature of condition, practice, or violation:

See the text under Item #9 of the attached inspection report for a complete description of the violation.

Provisions of Act, regulations, or permit violated:

R645-300-142, 143

☐ **This order requires Cessation of ALL mining activities.** (Check box if appropriate.)

☐ Condition, practice, or violation is creating an imminent danger to health or safety of the public.

☐ Permittee is/has been conducting mining activities without a Permit.

☐ Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

☐ Permittee has failed to abate Violation(s) included in
☐ Notice of Violation or ☐ Cessation Order within time for abatement originally fixed or subsequently extended.

☐ **This order requires Cessation of PORTION(S) of mining activities.**

Mining activities to be ceased immediately: ☐ Yes ☐ No

Abatement Times (if applicable).

Action(s) required: ☒ Yes ☐ No

See the text under item #9 of the attached inspection report for a complete description of the actions required to abate the violation.

Kirk Nicholes

(Print) Permittee Representative

JOE HELFRICH

(Print) DOGM Representative

Permittee Representative's Signature - Date

DOGM Representative's Signature - Date

SEE REVERSE SIDE Of This Form For Instructions And Additional Information



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Inspection Report

Permit Number:	C0250005
Inspection Type:	TECHNICAL
Inspection Date:	Wednesday, November 18, 2015
Start Date/Time:	11/18/2015 10:30:00 AM
End Date/Time:	11/18/2015 2:30:00 PM
Last Inspection:	Wednesday, October 28, 2015

Inspector: Joe Helfrich

Weather: Sunny slight breeze 50

InspectionID Report Number: 5366

Accepted by: JHELFRIC
12/10/2015

Permittee: **ALTON COAL DEVELOPMENT LLC**

Operator: **ALTON COAL DEVELOPMENT LLC**

Site: **COAL HOLLOW**

Address: **463 North 100 West, Suite 1, CEDAR CITY UT 84720**

County: **KANE**

Permit Type: **PERMANENT COAL PROGRAM**

Permit Status: **ACTIVE**

Current Acreages

721.00	Total Permitted
342.00	Total Disturbed
	Phase I
	Phase II
	Phase III

Mineral Ownership

- ☒ Federal
☐ State
☐ County
☒ Fee
☐ Other

Types of Operations

- ☐ Underground
☒ Surface
☐ Loadout
☐ Processing
☐ Reprocessing

Report summary and status for pending enforcement actions, permit conditions, Division Orders, and amendments:

This site visit was conducted on the 355 acre BLM parcel located 1/4 mile West of the mine facilities. The purpose of the visit was to evaluate the lop and scatter work that needed to be completed by October 31, 2015. Although additional work had been completed the photographs taken illustrate areas that did not meet the specifications required by the BLM and DOGM. These areas will not benefit the sage grouse population. The chronological sequence of events that have occurred since the beginning of this project are described under item #9 of this report.

Inspector's Signature

Joe Helfrich
Joe Helfrich,
Inspector ID Number: 1

Date Thursday, November 19, 2015



Permit Number: C0250005
 Inspection Type: TECHNICAL
 Inspection Date: Wednesday, November 18, 2015

Inspection Continuation Sheet

Page 2 of 4

REVIEW OF PERMIT, PERFORMANCE STANDARDS, PERMIT CONDITION REQUIREMENTS

1. Substantiate the elements on this inspection by checking the appropriate performance standard.
 - a. For COMPLETE inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check Not Applicable.
 - b. For PARTIAL inspections check only the elements evaluated.
2. Document any noncompliance situation by reference the NOV issued at the appropriate performance standard listed below.
3. Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
4. Provide a brief status report for all pending enforcement actions, permit conditions, Divison Orders, and amendments.

	Evaluated	Not Applicable	Comment	Enforcement
1. Permits, Change, Transfer, Renewal, Sale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Signs and Markers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Topsoil	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.a Hydrologic Balance: Diversions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.b Hydrologic Balance: Sediment Ponds and Impoundments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.c Hydrologic Balance: Other Sediment Control Measures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.d Hydrologic Balance: Water Monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.e Hydrologic Balance: Effluent Limitations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Explosives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Disposal of Excess Spoil, Fills, Benches	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Coal Mine Waste, Refuse Piles, Impoundments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Noncoal Waste	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Protection of Fish, Wildlife and Related Environmental Issues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Slides and Other Damage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Contemporaneous Reclamation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Backfilling And Grading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Revegetation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Subsidence Control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Cessation of Operations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.a Roads: Construction, Maintenance, Surfacing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.b Roads: Drainage Controls	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Other Transportation Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Support Facilities, Utility Installations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS Check	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Air Quality Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Bonding and Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Protection of Fish, Wildlife and Related Environmental Issues

ACD has failed for the fourth time to complete sage-grouse mitigation work for the 355-acre project (that was identified in Appendix 3-7 of the approved MRP) on time. The September 19, 2013 BLM letter authorized the "removal of pinyon and juniper tress within the 355 acres." At an October 24, 2013 meeting where ACD's skilled biologists were present, the Division of Wildlife Resources (DWR) explained what standards were necessary for the mitigation work to benefit the sage grouse population. On October 28, 2013, the Division of Oil, Gas and Mining (DOGM) approved an amendment to the Mining Reclamation Plan (MRP), which included a requirement that the stump height of any felled tree would not exceed six (6) inches. ACD failed to meet this standard by the beginning of the 2014 February-to-July mating season. The BLM later clarified what standards it required on its land in its February 28, 2014 correspondence, which was subsequently amended to the MRP on March 21, 2014. That amendment stated "[a]fter assessment of the project in early 2014 by the BLM, it was decided that additional work needed to be done in the appropriate season of 2014 as per the letter dated 3/3/2014 from [the BLM]. . . ." Again, ACD failed to complete the additional work required to meet those standards that the BLM, DWR, and DOGM have provided to ACD by the end of the working season of 2014 and 2015. At the beginning of the 2015 February-to-July mating season, the 355-acre project had still not been treated to the required standards. Notice of Violation 18150 was issued to Alton Coal Development LLC as a result of the inspections conducted on February 11, March 10 and April 14, 2015. Alton Coal abated the violation by providing an amendment to the MRP that expressly included the standards provided by DWR, BLM, and DOGM. The amendment included a deadline to complete the work to the standards by October 31, 2015 or eight (8) weeks after DWR or DOGM had confirmed that it was a safe time to begin mitigation work, whichever date was earlier.

Three inspections were conducted prior to the October 31st, 2015 deadline, August 12th and 19th and a combined DOGM/BLM inspection on September 23rd, 2015. Photographs and documentation of site conditions for the three inspections indicated that the standards provided by DWR, BLM, and DOGM had not been met. DOGM sent a letter to ACD on October 21, 2015 noting that the specifications had not been met and were required to be completed by October 31st. The areas inspected and photographed in the 355 acre BLM parcel during this site visit do not meet the standards provided by DWR, BLM, and DOGM. NOV #21161 is being issued as a result of Alton Coal Development LLC's failure to meet these requirements by the 31st of October 2015.

Action(s) required: 1) ACD will need to complete the mitigation for those remaining areas within the 355 acre BLM parcel to the required specifications and receive written approval from the BLM for completion of the treatment. There are time constraints associated with this option as weather conditions make the area currently inaccessible and closure periods for the sage grouse are in effect until mid-July of 2016; or

2) Fund a Watershed Restoration Initiative (WRI) project through the BLM and DWR which will count toward completion of the treatment in the 355 acre BLM parcel. The amount of acreage to be treated and cost per acre will be determined by the BLM; or

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ACD will need to comply with one of the abatement options prior to the expansion of mining and or mining related activities into any new area. Selection of one of the abatement options must be made by no later than January 20th, 2016. Termination of the NOV will occur upon completion of any one of the options.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Color Country District - Kanab Field Office
669 S. Highway 89 A
Kanab, UT 84741



C/025/005 Incoming
cc: Joe Dana

IN REPLY REFER TO: 6840

LLCO04000

October 5, 2015

Joe Helfrich
Division of Oil, Gas and Mining
P.O. Box 145801
Salt Lake City, Utah 84114-5801

RECEIVED

OCT 13 2015

DIV. OF OIL, GAS & MINING

The Kanab, Field Office of the Bureau of Land Management (BLM) has had the opportunity to again review the Coal Hollow Mitigation Project located on BLM lands adjacent to the Coal Hollow Mine near Alton, UT cooperatively on a site tour 9-23-15.

The tree debris has not been scattered according to the stipulations as specified by the State of Utah Division of Wildlife Resources (UDWR). Many of the trees have been lopped, but not scattered. According to the stipulations, the scatter should be no deeper than 24 inches, and well scattered. Stump height should not exceed 6 inches, and no piece of debris should be longer than 4 feet. Our range staff did review the project again and would like to see the project finished. We realize the value that the removal of invaded pinyon and juniper in lekking and brooding habitat has to benefit sage grouse in the Alton area, and we appreciate the opportunity to work cooperatively to manage opportunities for off-site mitigation to benefit grouse in the area. Range conservationist John Resse did meet with the contractor on site and explain the stipulations to the contractor. If all work were similar to exhibit 4 all stipulations would be met. That is evident in Exhibit 4 adjacent to the spoils pile, exhibits 1-3 show locations where additional work is required. Enclosed you will find documentation collected 9-23-15 regarding stump height and debris scattered on site. Please refer to the standards listed below.

The standard contracting stipulations include the following:

Typical State of Utah – Lop and Scatter specs. R. Boswell Feb 2014

Work Limits: Only areas shown on the Project Map will be treated. The project areas will be flagged and/or described verbally. This area consists of trees in varying densities and sizes. Much of the project area has very sparse tree densities and consists of young small trees. Some areas have dense patches of very old mature trees.

Cutting shall be performed in an organized systematic manner as determined in the pre-work conference.

Cutting: This is a "lop and scatter" contract. Pinyon and juniper trees less than 20" in diameter within the project boundaries shall be completely severed from the stump(s). **No live limbs shall be left on the**

stump of cut trees. All main branches or stems shall be cut from the trunk of the tree to meet scattering requirements.

Additional treatment specifications:

1. Cut material will be lopped and scattered so that slash height does not exceed 24" above the ground.
2. Cut material left on site shall not exceed 48" in length.
3. Cut material will be spread in ephemeral washes and draws where possible to help reduce erosion.
4. Live browse species such as Bitterbrush, Oak, or Mahogany, shall not be cut or damaged.
5. Only established roads shall be used. No overland travel by vehicle will be allowed.
6. Trees identified as bearing trees, or any tree blazed or tagged to mark the line of any Government survey, shall not be cut or destroyed under penalty of the law. Trees with reference tags will be left uncut.
7. Ponderosa Pine shall not be cut or damaged.

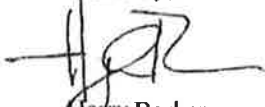
Equipment Requirements:

The Contractor shall furnish chainsaws on a fully-operational basis, with competent, fully-qualified operators, and shall meet the following specifications:

1. Must provide a minimum of a 10-man crew.
2. Be capable of cutting live or dead pinyon and juniper trees up to twenty (20) inches in diameter at six (6) inches above ground level on the uphill side.
3. Equipment shall be free of fluid leaks and be in good operating condition.
4. Equipment shall be washed before entering and exiting federal and state lands. All soil and plant parts shall be removed to prevent the spread of noxious weeds in and out of the project area.

BLM would like to insure that the final product on site meets these stipulations as presented by UDWR. A final inspection of the project site by BLM and or UDWR staff when the additional work has been completed will determine project completion.

Sincerely,



Larry Barber
Field Office Manager
Kanab Field Office